

REMARKS

Examination on the merits and allowance of the above-identified application are respectfully requested. Claims 13-33 and 35-44 are currently pending. Claims 1-12 have been canceled and new claims 35-44 have been added.

Traversal of Restriction/Election of Species Requirement

The plural restrictions/elections of species requirements are traversed in part. Specifically, Applicants respectfully submit that the combination/subcombination restriction of Groups II-A and II-B is improper as these two claim groups are not related as combination/subcombination or as subcombinations usable together. Specifically, both of these two groups of claims are simply related to surgical microscopy systems having different feature sets. Such claims cannot properly be considered properly restrictable combinations/subcombinations or subcombinations usable together because, among other things, they include common elements. For example, both claim 15 (in Group II-A) and claim 21 (in Group II-B) recite, among other things, a surgical microscope, a stand and a plurality of pivotally connected arms. For at least these reasons, reconsideration and withdrawal of this portion of the restriction requirement are respectfully requested.

Secondly, some of the species identifications are also improper. In order for species to constitute independent inventions subject to restriction requirements they must be mutually exclusive. Thus the test for determining whether such species exist in the claims is to identify one claim that recites limitation which, in the patent specification, but not in a second embodiment, and a second claim which recites limitations disclosed only for the second embodiment and not the first. Applying this test to the originally filed claims indicates that many of these claims should not have been restricted as reading on species. For example, Applicants respectfully submit that, e.g., originally filed claims 2-9, 15, 16 and 20 contain features which are not mutually exclusive relative to one another. More specifically, the present specification describes in detail various light guiding mechanisms, power supplies and data transmission devices which can be used separately or together. Since they can be used together, they cannot be properly restricted as independent species.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the Restriction Requirement to permit a reasonable number of independent claims and features to be examined in this application. Applicants suggest that originally filed claims 13-33 would provide a reasonable line of demarcation.

Election

Notwithstanding the foregoing traversal, and as required by the Patent Office, Applicants elect claim 16 corresponding to Group II-A-4. Applicants also submit herewith new dependent claims 35-44, all of which ultimately depend from elected claim 16, and which are respectfully submitted to claim features which should be examined therewith.

All of the objections and rejections raised in the Office Action having been addressed, Applicants respectfully submit that this application is in condition for allowance and a notice to that effect is earnestly solicited. Should the Examiner have any questions regarding this response or the application in general, he is urged to contact the undersigned at (540) 361-1863.

Respectfully submitted,

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